

Appl. No. 10/019,248

REMARKS**1. Rejection of the Claims Under 35 USC 101**

Claim 31, 33-34, 48 and 50-51 have been rejected under 35 USC 101 as being improper "use" claims. These European-style use claims have been canceled, but without disclaimer of any of the subject matter contained therein. This action renders the rejection moot.

2. Rejection of the Claims Under 35 USC 102

Claims 18-23 and 35-40 have been rejected under 35 USC 102(b) over Torii et al. This rejection is respectfully traversed. Reconsideration and withdrawal thereof are requested.

The present invention is importantly directed to a method for the measurement of MMPs utilized in the diagnosis of respiratory tract inflammation, particularly in a "point-of-care-test" environment that can be easily conducted by medical personnel or even by a patient in a bed-side chair-side or on-field environment. This kind of easy to use method is not at all described by Torii et al. The Torii et al. publication describes experiments relating to an investigation of possible involvement of type IV collagenolytic MMP and their respective specific tissue inhibitors in the development of adult respiratory distress syndrome (ARDS). The reference, however, does not at all teach or suggest the easy to use method of the present invention. Moreover, while the Torii et al. publication is strictly limited to investigation of ARDS, the present invention is useful in a variety of different chronic inflammatory lung diseases, such as chronic obstructive pulmonary disease, bronchial asthma and others. This is not at all taught or suggested by Torii et al.

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In summary, prior to the present invention there was a need in the art for a rapid, easy to use system to measure active and latent forms of MMP that could be used for diagnosing acute inflammation, or for predicting the risk that an acute inflammation could become chronic, or for monitoring the efficacy of therapy in a rapid and easy to use point of-care-test. The present invention first meets that need in the art in a manner not taught or suggested by Torii et al.

Accordingly, reconsideration and withdrawal of the rejection are requested.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), the Applicant respectfully petitions for a three (3) month extension of time for filing a response in connection with the present application and the required fee of \$475.00 should be charged to Deposit Account No. 02-2448.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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